

S/N 09/125,751
Fodstad et al.

REMARKS

Claims 1, 8, 14, 15, 20, 21, 29 and 30 have been amended according to the Examiner's recommendations as set forth in the attached Examiner-Initiated Interview Summary and as discussed during an interview with the Examiner on October 29, 2004. Claims 23, 27 and 28 have been canceled. New claims 31 and 31 have been added, thereby replacing canceled claims 27 and 28 to correct claim number order as suggested by the Examiner in the Office Action. Reconsideration of the merits of this application is respectfully requested in light of the above amendment and the following remarks.

No new matter has been introduced with the foregoing amendments and newly added claims. Support for the amendments to claims 1, 14, 21, and for new claims 31 and 32 can be found throughout the specification and claims as originally filed. Reconsideration is respectfully requested.

Telephone Interviews

Applicants would like to thank the Examiner for the telephone interviews on October 7, 2004 and October 29, 2004 to discuss the claims. Attached please find the Examiner-Initiated Interview Summary for the interview conducted October 7, 2004. An allowable set of claims, pending submission of antibody deposition documentation, was discussed during the telephone interview on October 29, 2004. The Examiner's time and helpful suggestions in recommending an allowable set of claims are greatly appreciated.

First Rejection Under 35 U.S.C. § 112

Claims 3, 15, 16, 18 and 19 have been rejected under 35 U.S.C. § 112, first and second paragraphs. Documentation of the deposition of antibody BM7 is submitted concurrently herewith. As shown on the ATCC deposit receipt, the deposited BM7 has been assigned accession number PTA-5632. Applicants will submit the appropriate documentation regarding the deposit information of antibody BM2 as soon as it is available.

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Second Rejection Under 35 U.S.C. § 112

Claims 1, 6-8, 13-14, 20-23 and 25-26 have been rejected under 35 U.S.C. § 112, first paragraph. To the extent the rejection is applicable to the amended set of claims, Applicants respectfully traverse the rejection.

As acknowledged by the Examiner during the telephone interviews, support for the newly added limitations of an antibody binding to the same epitope as MOC31/BM2/BM7 flows from the teaching of the specification that the activity of an antibody as used in the invention is dependant on its specificity. As specificity is determined based on the epitope to which an antibody binds, the specification is, at least, enabling for antibodies binding to the same epitopes as antibodies MOC31 or BM2. In addition, Applicants have amended the claims to clarify that the invention is drawn to methods to kill breast cancer cells, thereby rendering the rejection under 35 U.S.C. § 112, first paragraph, moot. Withdrawal of the enablement is respectfully requested.

CONCLUSION


With the above amendments and remarks, Applicants believe that the claims pending in this patent application are in condition for allowance. Favorable consideration is respectfully requested. If any further questions arise, the Examiner is invited to contact Applicants' representative at the number listed below.

Respectfully submitted,

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Date: October

November 5, '04
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